

From: Boyd, Andrew
Sent time: 02/04/2016 08:43:52 AM
To: Connery, Shannon
Subject: FW: FMC site redevelopment plans / FOIA

From: Boyd, Andrew
Sent: Thursday, February 04, 2016 8:43 AM
To: 'Jill Grant' <jgrant@jillgrantlaw.com>
Cc: Sheldrake, Beth <sheldrake.beth@epa.gov>; Williams, Jonathan <Williams.Jonathan@epa.gov>; Kelly Wright (kwright@sbtribes.com) <kwright@sbtribes.com>; (b) (6); Bill Bacon (bbacon@sbtribes.com) <bbacon@sbtribes.com>; Gussie Lord <glord@jillgrantlaw.com>; Williams, Jonathan <Williams.Jonathan@epa.gov>; Sheldrake, Beth <sheldrake.beth@epa.gov>
Subject: RE: FMC site redevelopment plans

Jill

I apologize for the delay. We're still waiting to hear back from FMC and the lessee on changes we proposed based on your input. I've been assured we will hear back by the end of the week, so I should be able to get back to you on this on Monday.

Andy

Andrew Boyd
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From: Jill Grant [<mailto:jgrant@jillgrantlaw.com>]
Sent: Tuesday, February 02, 2016 10:46 AM
To: Boyd, Andrew <Boyd.Andrew@epa.gov>
Cc: Sheldrake, Beth <sheldrake.beth@epa.gov>; Williams, Jonathan <Williams.Jonathan@epa.gov>; Kelly Wright (kwright@sbtribes.com) <kwright@sbtribes.com>; (b) (6); Bill Bacon (bbacon@sbtribes.com) <bbacon@sbtribes.com>; Gussie Lord <glord@jillgrantlaw.com>
Subject: RE: FMC site redevelopment plans

Hi Andy,

I was wondering about the status of the transfer agreement. I still haven't received a response from you to my email below, which included an attachment with my comments on the draft agreement you sent me.

Thanks,

Jill

From: Jill Grant
Sent: Monday, January 18, 2016 10:03 AM
To: 'Boyd, Andrew'
Cc: Sheldrake, Beth; Williams, Jonathan; Kelly Wright (kwright@sbtribes.com); (b) (6); Bill Bacon (bbacon@sbtribes.com); Gussie Lord
Subject: RE: FMC site redevelopment plans

Andy,

My comments are indicated in red-line on the attached draft.

I agree that the draft includes the provisions of UAO paragraph 43 but I think there are a few other issues that need to be

identified. First, I think the water treatment facility should be specifically mentioned because it may result in additional restrictions/obligations being placed on FMC and Valley Agronomics. I also think that EPA's role as trustee for the Tribes should be referenced, even though I accept the fact that EPA is the only third-party beneficiary of the agreement.

Thanks,

Jill

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From: Boyd, Andrew [<mailto:Boyd.Andrew@epa.gov>]
Sent: Wednesday, January 13, 2016 12:32 PM
To: Jill Grant
Cc: Sheldrake, Beth; Williams, Jonathan
Subject: RE: FMC site redevelopment plans

Jill

We're planning to approve the transfer agreement next week that I sent you last month. As I indicated in my message to you last month (attached below), the agreement does appear to satisfy the UAO requirements, including the requirement to allow access and restrict land use.

Until such time as we can establish and record the proprietary controls required by the UAO, we want to be sure we have an agreement in place from the transferee enforceable by FMC and the U.S. to allow access and to restrict land use, to record proprietary controls and to subordinate its rights to the proprietary controls agreement.

Let me know if you have any questions or concerns.

Andy

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From: Boyd, Andrew
Sent: Thursday, December 17, 2015 5:16 PM
To: 'Jill Grant' <jgrant@jillgrantlaw.com>
Cc: Sheldrake, Beth <sheldrake.beth@epa.gov>; Williams, Jonathan <Williams.Jonathan@epa.gov>
Subject: RE: FMC site redevelopment plans

Jill

Attached is the agreement FMC has prepared pursuant to paragraph 43 of the FMC UAO for Remedial Design and Remedial Action that I mentioned when we spoke. Paragraph 43 of the UAO provides that FMC OU property can only be transferred if: (1) proprietary controls required by UAO Par. 46(c) have been recorded; or (2) FMC has obtained an agreement from the transferee enforceable by FMC and the U.S. to allow access and to restrict land use, to record proprietary controls and to subordinate its rights to the proprietary controls.

Because proprietary controls required by UAO par. 46(c) are not expected to be established and recorded in advance of the planned lease of the property to be redeveloped, FMC has prepared the attached agreement and submitted it for EPA approval. It does appear to satisfy the Par. 43 requirements, including the requirement to allow access and restrict land use.

We recognize that the Tribes have concerns with the redevelopment that will need to be considered and addressed, and we wanted to be sure to provide the Tribes with an opportunity to review the agreement along with the remedial design/remedial action proposals for the redevelopment area. Please don't hesitate to call if you have questions.

Andy

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